

FILED
Department of Business and Professional Regulation
Senior Deputy Agency Clerk
CLERK Brandon Nichols
Date 9/16/2019
File # 2019-07960

STATE OF FLORIDA
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION
DIVISION OF FLORIDA CONDOMINIUMS, TIMESHARES, AND MOBILE HOMES

IN RE: PETITION FOR DECLARATORY STATEMENT

Docket No. 2019028883

TONYA RASCHKE, Unit Owner
CANNONGATE PROPERTY OWNER'S ASSOCIATION, INC.

DS 2019-039

Petitioner.

**FINAL ORDER GRANTING IN PART AND DENYING IN PART PETITION FOR
DECLARATORY STATEMENT**

The Department of Business and Professional Regulation, Division of Florida Condominiums, Timeshares, and Mobile Homes ("Division") hereby issues this Final Order Granting In Part and Denying In Part Petition for Declaratory Statement pursuant to section 120.565, Florida Statutes.

On June 4, 2019, the Division received a Petition for Declaratory Statement ("Petition"), from Tonya Raschke and Ivan Hernandez ("Initial Petitioners"), unit owners at the Cannongate Property Owner's Association, Inc. ("Association"). The Petition requests a declaratory statement as to the following: 1) the Division's evaluation of legal arguments advanced by a party in its Motion for Rehearing in a separate and distinct arbitration case; 2) whether the votes of previous board members that have been neither nominated nor elected are legally valid when making decisions for the Association; and 3) whether Petitioners are entitled to a deferral of any attorney's fees and costs levied by the Division until the conclusion of a trial de novo, similar to the

deferral pending a motion for rehearing, pursuant to rule 61B-80.122(2), Florida Administrative Code.

On July 2, 2019, the Division confirmed receipt of the Petition in a letter sent to Initial Petitioners. The Notice of Receipt of the Petition was published in the Florida Administrative Register on July 3, 2019. Initial Petitioners did not request a hearing.

On July 18, 2019, the Division received the Association's Motion to Dismiss the Petition.

On August 7, 2019, the Division received a letter from Ivan Hernandez in which that Initial Petitioner stated that he wished to withdraw from the Petition such that he could file a different Petition for Division consideration. Thus, Tonya Raschke ("Petitioner") is the sole petitioner for this Request for Declaratory Statement.

FINDINGS OF FACT

All of the facts presented in the Petition were duly considered, included in the record, and form the basis of this Final Order. The Division takes no position as to the accuracy of the facts and accepts them as submitted by Petitioner for the purpose of issuing this Final Order Granting In Part and Denying In Part Petition for Declaratory Statement.

1. Petitioner is a unit owner at Cannongate Property Owner's Association, Inc.
2. The Association is a homeowners' association as that term is defined in section 720.301(9), Florida Statutes.

3. The Association held an election¹ in which new members (“new board”) were voted onto the board.

4. Some members of the Association’s previous board of directors (“previous board”) have advanced allegations of improper conduct regarding the election, and have not vacated their board seats. This previous board continues to conduct business as if they are members of the only duly elected board.

5. The previous board has blocked the new board from taking their seats, has blocked the new board from gaining access to records, funding, and contractors, and has elected members to open board seats that are supportive of their claim that they are members of the only duly elected board.

6. The Association’s election is currently under review and consideration by the Division’s Arbitration section in the ongoing arbitration case no. 2019-00-2222.

7. In that arbitration case, the Association filed a Motion to Dismiss, in which it asserts that Initial Petitioners lack standing, citing to the “Golden Rule” on which the arbitrator in Conley v. Bayside Owners Association, Inc., Arb. Case No. 2018-06-2886, Final Order of Dismissal (February 11, 2019), based that case’s dismissal.

8. Petitioner has discovered that the representative in that separate Conley arbitration case filed a Motion for Rehearing that presents legal arguments similar to those Petitioner advances herein.

9. Petitioner is concerned that if her arbitration case is dismissed due to lack of standing and Initial Petitioners wish to seek redress by trial de novo, they may

¹ The Petition fails to specify the date of the election; however, it is clear from the Petition that: (1) the election has already occurred as of the submission of the Petition; (2) the election is currently being challenged in arbitration case no. 2019-00-2222; and (3) Petitioner states the election was not challenged within sixty days.

nevertheless be required to reimburse the Association for its attorney's fees and costs at the conclusion of the trial de novo.

10. Petitioner is seeking a declaratory statement as to the following: 1) the Division's evaluation of legal arguments advanced by a party in its Motion for Rehearing in a separate and distinct arbitration case; 2) whether the votes of previous board members that have been neither nominated nor elected are legally valid when making decisions for the Association; and 3) whether Petitioner is entitled to a deferral of any attorney's fees and costs levied by the Division until the conclusion of a trial de novo, similar to the deferral pending a motion for rehearing, pursuant to rule 61B-80.122(2), Florida Administrative Code.

CONCLUSIONS OF LAW

1. The Division has jurisdiction to enter this Order pursuant to section 120.565, Florida Statutes.

2. Section 120.565, Florida Statutes, provides in part:

(1) Any substantially affected person may seek a declaratory statement regarding an agency's opinion as to the applicability of a statutory provision, or of any rule or order of the agency, as it applies to the petitioner's particular set of circumstances.

(2) The petition seeking a declaratory statement shall state with particularity the petitioner's set of circumstances and shall specify the statutory provision, rule, or order that the petitioner believes may apply to the set of circumstances.

3. Rule 28-105.001, Florida Administrative Code, provides:

A declaratory statement is a means for resolving a controversy or answering questions or doubts concerning the applicability of statutory provisions, rules, or orders over which the agency has authority.

A petition for declaratory statement may be used to resolve questions or doubts as to how the statutes, rules, or orders may apply to the petitioner's particular circumstances. A declaratory statement is not the appropriate means for determining the conduct of another person.

4. Section 720.302(2), Florida Statutes, provides in pertinent part:

The Legislature recognizes that it is not in the best interest of homeowners' associations or the individual association members thereof to create or impose a bureau or other agency of state government to regulate the affairs of homeowners' associations. However, in accordance with s.720.311, the Legislature finds that homeowners' associations and their individual members will benefit from an expedited alternative process for resolution of election and recall disputes and presuit mediation of other disputes involving covenant enforcement and authorizes the department to hear, administer, and determine these disputes as more fully set forth in this chapter.

5. Petitioner has standing to petition for a declaratory statement as a unit owner, pursuant to section 120.565, Florida Statutes.

6. A declaratory statement is not an appropriate remedy where there is related pending litigation, as exists in this case. See Couch v. Fla. Dep't of Health and Rehabilitative Services, 377 So. 2d 32 (Fla. 1st DCA 1979); see also Fox v. State of Osteopathic Medical Examiners, 395 So. 2d 192 (Fla. 1st DCA 1981)(holding that it is appropriate to deny a petition for declaratory statement where issues raised are currently pending in administrative hearings). The issues raised in Petitioner's questions (1) and (2) are currently the subject of pending litigation in arbitration case no. 2019-00-2222. Therefore, ongoing litigation precludes the Division from answering questions (1) and (2).

7. Notwithstanding the ongoing litigation, the Division cannot address Petitioner's questions (1) and (2) through a declaratory statement for the following reasons:

8. First, the Division's jurisdiction over homeowners' associations is extremely limited, and includes only procedural issues pertaining to the Division's arbitration of election, recall, or covenant enforcement disputes. See § 720.302(2), Fla. Stat. Thus, the Division is unable to answer Petitioner's question (2) to render an opinion as to the validity of the votes of the previous board as the Association is a homeowners' association.

9. Second, Petitioner's question (1) does not request the Division's opinion on the applicability of a statutory provision, rule, or order of the Division to Petitioner's particular set of circumstances, as required by section 120.565, Florida Statutes. The purpose of a declaratory statement is to answer any questions or doubts concerning the applicability of **statutory provisions, rules, or orders** over which the Division has authority as they pertain to a petitioner's particular set of circumstances. See Florida Administrative Code Rule 28-105.001. Petitioner asks the Division to evaluate the arguments advanced in a motion submitted by a party in a separate and distinct arbitration case. As such, Petitioner's question (1) fails to inquire as to the applicability of a statutory provision, rule, or order of the Division, and therefore, does not comply with section 120.565, Florida Statutes, or rule 28-105.001, Florida Administrative Code.

10. Third, the Division is unable to issue a declaratory statement regarding past conduct. The purpose of a declaratory statement is to allow petitioners to

select a proper course of action in advance. Novick v. Dep't of Health, Bd. of Med., 816 So. 2d 1237, 1240 (Fla. 5th DCA 2002). The facts presented to the Division regarding Petitioner's question (2) pertain to the previous board's past action of retaining their board seats, the past election, and the previous board's past action of blocking the new board's access to association property and resources. A petition for approval or disapproval of past conduct is properly denied. Id.

11. Fourth, the Division is unable to issue a declaratory statement that seeks guidance for the determination of conduct of another person. St. Johns Cty. v. Dep't of Cmty. Affairs, 836 So. 2d 1034, 1035 (Fla. 5th DCA 2002). A declaratory statement is not the appropriate means for determining the conduct of another person. Florida Administrative Code Rule 28-105.001. The facts presented to the Division in Petitioner's question (2) pertain to the previous board's decisions to retain their board seats and conduct themselves accordingly. Thus, the Division is unable to issue a declaratory statement in this matter as Petitioner's question (2) seeks guidance for the determination of conduct of another person, and therefore, does not comply with rule 28-105.001, Florida Administrative Code.

12. The answer to Petitioner's question (3) is no. Rule 61B-80.122(2), Florida Administrative Code, states that "[a] timely filed motion for rehearing tolls the time in which a party must file to recover its costs and attorney's fees, until after disposition of the motion for rehearing or reconsideration." This rule only applies to motions for rehearing. To interpret the language of rule 61B-80.122(2), Florida Administrative Code, beyond what is readily apparent would be to issue an improper statement of general applicability. See Grabba-Leaf, LLC v. Dep't of Bus. & Prof'l Regulation, Div.

of Alcoholic Bevs. & Tobacco, 257 So. 3d 1205, 1208 (Fla. 1st DCA 2018)(determining that an agency statement that interprets law or policy and hasn't been adopted in accordance with chapter 120, Florida Statutes, is considered an unadopted rule and cannot be enforced against a party's substantial interest, but an agency statement that reiterates a law or declares what is 'readily apparent' from the text of a law is not an unadopted rule). Furthermore, an administrative agency may not use a declaratory statement as a vehicle for the adoption of broad agency policy that applies to an entire class of persons. Regal Kitchens, Inc. v. Fla. Dep't of Revenue, 641 So. 2d 158, 164 (Fla. 1st DCA 1994). Rule 61B-80.122(2), Florida Administrative Code, simply does not apply to trials de novo.

13. Since the Association failed to properly move the Division to intervene in this proceeding, its Motion to Dismiss the Petition is moot.

[SIGNATURE PAGE FOLLOWS]

Based on the foregoing, it is hereby:

ORDERED that the Petition for Declaratory Statement is **GRANTED IN PART** and **DENIED IN PART**.

DONE and **ORDERED** this 13th day of September 2019, at Tallahassee, Leon County, Florida.



A handwritten signature in black ink, appearing to read "B. McAdams".

Boyd McAdams, Division Director
Department of Business and
Professional Regulation
Division of Florida Condominiums,
Timeshares, and Mobile Homes
2601 Blair Stone Road
Tallahassee, FL 32399-1030

NOTICE OF RIGHT TO APPEAL

THIS FINAL ORDER CONSTITUTES FINAL AGENCY ACTION AND MAY BE APPEALED BY ANY PARTY ADVERSELY AFFECTED PURSUANT TO SECTION 120.68, FLORIDA STATUTES, AND RULE 9.110, FLORIDA RULES OF APPELLATE PROCEDURE, BY FILING A NOTICE OF APPEAL CONFORMING TO THE REQUIREMENTS OF RULE 9.110(c), FLORIDA RULES OF APPELLATE PROCEDURE, BOTH WITH THE APPROPRIATE DISTRICT COURT OF APPEAL ACCOMPANIED BY APPROPRIATE FILING FEES AND WITH THE AGENCY CLERK, 2601 BLAIR STONE ROAD, TALLAHASSEE, FLORIDA 32399-2202; AGC.FILING@MYFLORIDALICENSE.COM; FAX (850) 488-5761, WITHIN THIRTY (30) DAYS OF THE RENDITION OF THIS FINAL ORDER.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Mail to Tonya Raschke, 5424 Lee Ct., West Palm Beach, Florida 33415 on this 16th day of September, 2019.

Brandon M. Nichols
Agency Clerk's Office

Copies furnished to:

Nick DuVal
Chief Attorney

Robert I. Rubin, Esq.
Becker & Poliakoff, P.A.
625 N. Flagler Drive, 7th Floor
West Palm Beach, Florida 33401

**STATE OF FLORIDA
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION
DIVISION OF FLORIDA CONDOMINIUMS, TIMESHARES, AND MOBILE HOMES**

In re. Petition for Declaratory Statement of

DS 2019-039

Tonya Raschke and Ivan Hernandez

Petitioners _____

Docket #2019028883

PETITION FOR DECLARATORY STATEMENT BEFORE THE DIVISION OF FLORIDA
CONDOMINIUMS, TIMESHARES, AND MOBILE HOMES

Petitioner, hereby submits this Petition as pro se petitioners, for a Division's Declaratory Statement (DS) pursuant to Section 120.565, Florida Statutes, and Rule 28-105.002, Florida Administrative Code, and hereby declared the following statement of standing:

That both Petitioners are unit owners and members of the Board of Directors for the Cannongate Property Owners Association, Inc. (Cannongate POA or the Association), and currently maintain the following mailing addresses and contact modes:

Name	Mailing Address	Tel. Number	Email Address
Tonya Raschke	5424 Lee Ct. WPB, FL 33416	561-818-7485	Tonya.Raschke@gmail.com
Ivan Hernandez	4738 Alberta Ave. WPB, FL 33417	240-547-8173	ihzus@yahoo.com

That Petitioners are also the Petitioners on a mandatory binding election arbitration dispute currently proceeding (Case No. 2019-00-2222; T. Raschke, et al v. Cannongate Property Owners Association, Inc.) which is under review and consideration by the Division's assigned arbitrator. Cannongate POA, Inc. is organized under Chapter 617, Corporations Not For Profit, Florida Statute, as a Homeowners Association (HOA), and also governed by Chapter 720, Florida Statute. Petitioners need the Division's Director DS on the questions of law they state herein and

that affects them, and/or may affect them, in the progression and/or disposition of the mentioned arbitration case, as they seemed currently incorrectly interpreted and applied by the Division's Arbitrators when compared to stipulations in Florida Statutes and Court decisions on similar legal matters, or that are still unaddressed by Florida Statute or the courts, and remain dangerously ambiguous to Petitioners legal position for their Mandatory Binding Arbitration of Election Dispute Petition (Arbitration Petition). Petitioners are not asking for the Division's Director's intervention in the mentioned case proceedings, but rather request a DS on legal matters that affect their Petition and that would be applicable in similar cases.

Petitioners have previously provided the Division with a copy of the Association's governing documents with their Arbitration Petition submission, labeled Appendix 1, and will appreciate it if the Division could also refer and use them for the purpose of this DS Petition. Petitioners seek the Division's Declaratory Statement (DS) on the following provisions of the statutes, rules, orders and /or administrative rules:

1. The Division's Arbitrators' use of what they have labeled a "General Rule" to determine that Petitioners lack standing to challenge an association's election (Cindy Conley v. Bayside Owners Association; Case No.2018-06-2886 and the other cases cited therein), where a "...Petitioner is not in a position where she has been aggrieved or harmed by the Association's action..." disregard Sec. 617.07401 Florida Statute that permits members of Not-for-Profit Corporation to initiate suit for the benefit of the entity in general (a derivative action). This matter affects Petitioners as Association Board Members and their Petition for the Division's Arbitration of Case No. 2019-00-2222, as the Arbitrator has denied, in first round, Petitioners Motion to Dismiss Defendant's Motion to Dismiss the Petition due to

Petitioner lack of standing, where Defendant cites the "General Rule" on which the Arbitrator in Conley v. Bayside based its case dismissal Final Order. Petitioners have learned that the Representative for Conley filed a Motion for re-hearing, which the Division dismissed due to a late submission, but that presents legal arguments similar to those Petitioners advance herein. Petitioners respectfully request that the Division provides them a copy of such Motion for Rehearing, and that the Division addresses the legal arguments of Conley's Representative that are germane to this petition for DS.

2. Petitioners also seek a Division's ruling or clarification as to the legality and validity of votes and actions by an Association member that was a previous Board member but was neither nominated nor elected to the Board. This question affects Petitioners as Association Board members, as the described situation is the reason for Petitioners request for arbitration under the Division's Case No. 2019-00-2222. The unelected outgoing members have advanced allegations of improper conduct of the elections proceedings as justification for their forcefully holding onto to their board seat, but neither proffered any particular allegation of wrong doing during the election process, nor challenged the election process in a Petition for Arbitration within the 60 days of election required by Florida Statute. Aided by the contractors which they had previously chosen to provide services to the association, including the Association's attorney, the hostile members have been able to block the elected board members from taking their seat and have block access to records, funding and communication of contractors with Members the new elected board elected as Directors. Those unelected past board members have also elected members to open board seats that are

supportive or their hostile takeover effort, as Petitioners discuss in more detail in their Arbitration Petition.

3. Petitioners also request a decision as to the applicability of the Division's Rules of Procedure Governing Recall And Election Disputes in Homeowners' Associations at section 61B-80.122(2), to permit a deferral by a party seeking the recovery of the Arbitration's case costs and attorneys fees until after the completion of a timely file civil complain for trial de novo, similar to the deferral therein stipulated for a timely filed motion for rehearing, that tolls the time in which a party must file to recover its costs and attorney's fees, until after disposition of the motion for rehearing. Based on Petitioners reading and interpretation of current Florida Statue and the Division's administrative rule language, should the Arbitrator for Petitioners' case dismiss their Petition base on lack of standing (in clear violation of Petitioners' constitutional rights (Petitioners Statement of Fact No. 1 below), and if Petitioners thereafter seek redress by trial de novo, they could nevertheless be required to reimburse the Division and Defendant's cost and attorney's fees, without having had a proper and fair Petition review and hearing by the Division.

STATEMENT OF FACTS AND LAW

1. Concerning the Division's Arbitrators' use of a "General Rule" to determine Petitioners lack of standing in dismissed election Arbitration Petitions where Petitioners have been found not aggrieved or harmed by the Association's action, neither section 720.311, nor s. 718.1255(5) of Florida Statue that addresses disputes involving election irregularities, nor Chapter 61B-80 (the Division's rules for filing election dispute arbitration petitions) delimits the right of members to file an election dispute petition. In fact, Section 61B-80.106(3)

specifically says that "Parties in an election dispute shall be involved homeowners and the association." Although Petitioners could not find any Florida Court cases directly addressing the matter of HOA members direct vs. derivative actions, in *Marianne FOX, et al., v. PROFESSIONAL WRECKER OPERATORS OF FLORIDA, INC.* (Case No. 5D00-3332; Fla. 5th DCA Nov. 30, 2001), the District Court of Appeal of Florida for the Fifth District elaborated on the distinction between a Derivative cause of action on behalf of the Membership (Association) of a Not For Profit Corporation, versus a Direct cause of action on behalf of a stockholder [owner] to enforce a right of action that exists on behalf of the stockholder individually. Additionally, the Court reasoned as follows:

"Because at common law the directors of a private corporation are considered by equity to be in a fiduciary relationship with the corporation and its shareholders, 3 Fletcher, *Cyclopedia of Corporations*, § 838 at 142 (1975 rev.), and because the right to assert a claim for the tort of breach of fiduciary duty derives from the common law, see, e.g., *Batas v. Prudential Ins. Co. of America*, 281 A.D.2d 260, 724 N.Y.S.2d 3 (2001); *Viruet v. Rubin*, 181 Misc.2d 535, 695 N.Y.S.2d 487 (Sup.1999); *Bohatch v. Butler & Binion*, 905 S.W.2d 597 (Tex.App.1995), *aff'd*, 977 S.W.2d 543 (Tex.1998), we agree with the conclusion reached in *Larsen* [*Larsen v. Island Developers, Ltd.*, 769 So.2d 1071 (Fla. 3d DCA 2000), *rev. denied*, 789 So.2d 346 (Fla.2001){added}], that the purpose for which a corporation is formed (profit versus nonprofit) is immaterial. Therefore, we hold that the members of either type of corporation should be treated equally and be allowed to bring a derivative action against the directors for perceived breaches of fiduciary duty."

There are several Florida court cases addressing the matter Derivative v. Direct actions as to Not For Profit corporations, that provide stipulations and criteria to distinguish them, that

HOA & Condo law practitioners have interpreted as germane to the ownership of a unit (a stockholder share) on a development governed by an HOA, drawing from the similar relationship and inherent duties of corporate board members and general members (shareholder) also present at HOAs. Specifically, the third Florida District court of appeal case of *Dinuro Investments, LLC v. Camacho* (141 So. 3d 731; Fla 3d DCA 2014) is considered the landmark case in Florida for establishing the distinction and determine if a member action is for individual (personal) or derivative (corporate) benefit. The three tests that the court noted in *Dinuro* were later reaffirmed by the fourth district of Florida DCA (*Strazzulla, et al v. Riverside Banking Co.*, No. 4D14-768, Fla 4d DCA 2015) and have been routinely applied by other courts. Based on the *Conley v. Bayside* case and the Arbitration cases cited therein, it is apparent that Arbitrators have not attempted to apply the three test criteria or determine the distinction of Petitioners with Direct v. Derivative claims for election disputes. In fact, as Petitioners initially mentioned, based on current applicable laws and rules, the criteria seems irrelevant to Arbitration Petitions for elections disputes.

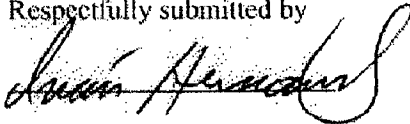
Nevertheless, the three rules discussed by the court in *Dinuro*, when applied to the *Conley v. Bayside* Arbitration case, any other prior or thereafter, would clearly dictate that members Petitions for Arbitration of election disputes are derivative actions permitted by Sec. 617.07401 Florida Statue, reaffirmed and clarified by court case Jurisprudence, and that a Division's administrative rule or order (a General Rule), inclusive those of the Division's Arbitrators, cannot override. Therefore, the Division Arbitrators have err in deciding to dismiss HOA members' petitions for arbitration of election disputes, due to lack of standing where there has been no personal injury to Petitioners, as their Petition were for a derivative cause. Moreover, to try an advance what has been an erred general practice as a Division

Arbitration Unit's "General Rule" is also contrary to the Division Director's opinion under Declaratory Statement (DS 2007-028) that an arbitrator's decisions are a mere single decision and are not consider final agency actions [Florida Statue S,718.1255(4)]. Therefore, the Division's Arbitrators are also incorrect in using the term "General Rule" to refer to a pattern of similar decisions, drawing one upon another, as each Arbitrator's decision stands individually. Petitioners are not suggesting that Arbitrators cannot look back to prior arbitration cases for guidance, analyses and in final order determinations but rather that their use of the term "General Rule" should be eliminated from final orders, as it is suggestive of a Jurisprudence process that does not exist in fact, as Arbitrators' Final Orders are neither subject to court appeals or the the Administrative Procedures Act.

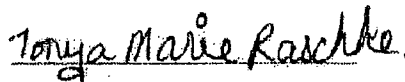
2. Petitioners are aware of the Division's discussion and decisions under Declaratory Statement DS 2207-028, that the votes and actions of ineligible members elected incorrectly are valid and bonding on the Association, until those members have been replaced. However, that Declaratory Statement does not address the validity of votes and actions of not elected members that takeover or hold onto board director position and duties in wanton and willful disregard of the results of a General Members election of board member, particularly when neither such willfully acting members, nor the Association, have challenge the election's results within the statute of limitation required by Florida Statue (60 days off election date).
3. Section 61B-80.122(2) permits the Division to grant a deferral by a party otherwise entitle to recover Arbitrations case costs and attorneys fees, and for the Division's assessed Arbitration cost, until after the completion of a timely file Motion for Petition Rehearing. Petitioners

submit for the Division's consideration that limiting or denying the application of the fee and cost deferral provision for Arbitration Parties that seek redress by trial de novo places HOA unit members, substantially more so than the Association. Additionally, in general, the State's financial resources are far superior to those of HOA unit owner, so that the Division would not be harmed by a recovery deferral. Particularly, in the case of a Petition dismissal for a legal technicality foreign to HOA members' Petitions, and without a hearing on the allegations of the Association's wrongdoings, places unit owners at an unfair financial disadvantage to seek such trial by de novo redress. Therefore, Petitioners respectfully request that the Division proposed rules for such cost and fee payment deferrals within their current authority, in order to address the HOA members' inequality of capacity to access the courts, or request such from the Florida legislature if the Division interprets in response to this request for Declaratory Statement that it does not currently have it.

Respectfully submitted by



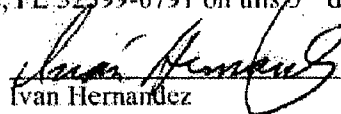
Ivan Hernandez, Petitioner



Tonya Raschke, Petitioner

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Petition has been provided to the Division of Florida Condominiums, Timeshares, and Mobile Homes via Facsimile to 850-921-5446 and by Regular Mail to Director, Division of Florida Condominiums, Timeshares, and Mobile Homes, 2601 Blair Stone Road, Tallahassee, FL 32399-0791 on this 5th day of June, 2019.



Ivan Hernandez
4738 Alberta Ave.
West Palm Beach, FL 33467
Tel. 240-547-8173
E-mail: ihzus@yahoo.com